



WASHINGTON STATE LIQUOR CONTROL BOARD

Notice of Proposed Rule Making #04-23 Contested Liquor License Applications and Renewals

The Washington State Liquor Control Board would like your input on the attached proposed revised rules regarding **contested liquor license applications and renewals**.

This rule making is filed with the Office of the Code Reviser in Washington State Register number 04-24-096 (<http://slc.leg.wa.gov/wsr/register.htm>).

Background

Existing law provides local governments and the general public to give input -- in support or in opposition -- to a liquor license application or the renewal of an annual liquor license. Current rules need clarification.

Effect of Proposed Rule Changes

The proposed changes to WAC 314-09 would:

1. Eliminate language that says the Board may hold a public meeting to gather more input before making an initial decision on an application or renewal.
2. Put current practice in rule that we notify local officials of licenses in their jurisdiction that will expire 90 days out, instead of former practice of 60 days.
3. Require that local official input on renewals be received 30 days before the license expires, instead of 15 days.
4. Clarify what happens with renewal objections from citizens.
5. Remove language redundant with existing rules regarding administrative hearings.
6. Make technical, "cleanup" changes by deleting redundancies or adding clarifying language.

Pages 2 through 4 of this notice show how the rules will be revised through the use of strikethrough and underlining. Pages 5 and 6 show how the rules will look if adopted (strikethrough and underling removed).

Public Comment

Please forward your comments to the Liquor Control Board by mail, e-mail, or fax by **January 27, 2005**.

By mail: Rules Coordinator
Liquor Control Board
PO Box 43080
Olympia WA 98504-3080

By e-mail: rules@liq.wa.gov

By fax: 360-704-4921

Following this public comment period the Liquor Control Board will decide whether or not to pursue these rule changes. If the rule making continues, the agency will publish proposed rule language and hold at least one public hearing.

Questions?

If you have any questions, please contact Karen McCall, Off-Premises License Manager, at 360-664-1631 or by e-mail at rules@liq.wa.gov.

AMENDATORY SECTION (Amending WSR 01-03-087, filed 1/17/01)

WAC 314-09-010 Objections to liquor license applications. (1) **How can persons, entities, and governmental jurisdictions object to the issuance of a liquor license or permit?** Per RCW 66.24.010 (8), (9), the board will notify certain entities of the following types of annual or special occasion liquor license or permit applications. In addition to the following entities, any person or group may comment in writing to the board regarding an ~~((liquor license))~~ application.

| Type of Application | Entities the board will notify |
|---|---|
| <ul style="list-style-type: none">• Applications for an annual license or permit at a new location that would allow the sale and/or service of alcohol beverage to the public for on-premises consumption or to-go; and• Applications to change the class of an existing annual liquor license or permit that allows the sale and/or service of alcohol beverage to the public for on-premises consumption or to-go. | <ul style="list-style-type: none">• Governmental jurisdictions in which the premises is located, and• Schools, churches, and public institutions within 500 feet of the premises to be licensed (as measured according to RCW 66.24.010(9)). |
| <ul style="list-style-type: none">• Applications for any annual or special occasion liquor license or permit that allows the sale and/or service of alcohol beverage; and• Changes of ownership at existing licensed premises. | <ul style="list-style-type: none">• Governmental jurisdictions only. |

(2) **What will happen if a person or entity objects to a liquor license application?** When deciding whether to issue or deny ~~((an annual))~~ a liquor license application or permit, the board will give due consideration to input from governmental jurisdictions in which the premises is located; private schools, churches, and public institutions within 500 feet of the premises (as measured according to RCW 66.24.010(9)); and other persons or groups. Note: ~~((a))~~ Per RCW 66.24.010(9), the board ~~((will))~~ shall not issue a new liquor license if a tax-supported public elementary or secondary school within 500 feet of the premises to be licensed objects to the application (500 feet as measured according to RCW 66.24.010(9)).

~~((b))~~ (a) At its discretion, the board may hold a public meeting to gather input from interested parties before making a decision on a liquor license application. If the board decides to hold a public meeting, it will notify all persons or entities who have legal standing to be notified of a liquor license application under RCW 66.24.010, and all persons who gave comment on the application. The record of the public meeting will be part of any record should the matter result in an adjudicative hearing under the provisions of the Administrative Procedure Act (chapter 34.05 RCW).

~~((c))~~ (a) If the board contemplates issuing a license over the objection of a governmental jurisdiction in which the premises is located, the government subdivision may request an adjudicative hearing under the provisions of the Administrative Procedure Act (chapter 34.05 RCW). If the board, in its discretion, grants the governmental jurisdiction(s) an adjudicative hearing, the licensee will be notified and given the opportunity to present evidence at the hearing.

~~((d))~~ (b) If the board denies a liquor license application based on the objection from a governmental jurisdiction; a private school, church, or public institution within 500 feet of the premises (as measured according to RCW 66.24.010(9)); and/or other persons or groups, the applicant(s) may either:

- (i) Reapply for the license or permit no sooner than one year from the original denial date; or

(ii) Submit a written request, within twenty days of the date ~~((on))~~ of licensee's receipt of the denial letter, for an adjudicative hearing under the provisions of the Administrative Procedure Act (chapter 34.05 RCW).

AMENDATORY SECTION (Amending WSR 01-03-087, filed 1/17/01)

WAC 314-09-015 Objections to liquor license renewals. (1) How can local governmental jurisdictions object to the renewal of a liquor license? (a) The board will give governmental jurisdictions ~~((sixty))~~ ninety days written notice of premises that hold annual liquor licenses in that jurisdiction that are up for renewal.

(b) Per RCW 66.24.010(8), if a governmental jurisdiction wants to object to the renewal of a liquor license in its jurisdiction, it must submit a letter to the board detailing the reason(s) for the objection and a statement of all facts on which the objections are based.

(c) This letter must be received by the board at least ~~((fifteen))~~ thirty days before the liquor license expires. The objection must state specific reasons and facts that show issuance of the liquor license at the proposed location or to the applicant business will detrimentally impact the safety, health, or welfare of the community.

(d) If the objection is received within 30 days of the expiration date or the licensee has already renewed the license, the objection will be considered as a complaint and possible license revocation by the Enforcement Division.

(e) Objections from the public will be referred to the appropriate governmental jurisdiction for action under subsection (2) below. Upon receipt of the objection, the board licensing and regulation division will acknowledge receipt of the objection(s) and forward to the appropriate governmental jurisdiction. Such jurisdiction may or may not, based on the public objection, request nonrenewal.

(2) What will happen if a governmental jurisdiction objects to the renewal of a liquor license? ~~((a))~~ The board will give due consideration to a governmental jurisdiction's objection to a liquor license renewal of a premises in its jurisdiction. Based on the governmental jurisdiction's input and any information in the licensing file, the board will decide to either renew the liquor license, or to proceed with non-renewal.

~~((b)) At its discretion, the board may hold a public meeting to gather input from interested parties before making a decision on a liquor license renewal. If the board decides to hold a public meeting, it will notify the governmental jurisdiction(s) and any other persons who gave comment on the renewal. The record of the public meeting will be part of any record should the matter result in an adjudicative hearing under the provisions of the Administrative Procedure Act (chapter 34.05 RCW).))~~

| ((e)) (b) Board decides to renew the liquor license: | ((d)) (c) Board decides to not renew the liquor license: |
|--|---|
| <p>(i) The board will notify the governmental jurisdiction(s) in writing of its intent to renew the license, stating the reason for this decision.</p> <p>(ii) The governmental jurisdiction(s) may contest the proposed renewal and request an adjudicative hearing under the provisions of the Administrative Procedure Act (chapter 34.05 RCW).</p> <p>—(iii) If the board, in its discretion, grants the governmental jurisdiction(s) an adjudicative hearing, the licensee will be notified and given the opportunity to present evidence at the hearing.</p> <p>—(iv) The board will consider the evidence, and will subsequently enter a final order announcing its decision.</p> <p>—(v) The governmental jurisdiction(s) or the licensee may appeal the final order of the board to the superior court for judicial review (under chapter 34.05 RCW).</p> <p>—(vi) During the hearing and any subsequent appeal process, the licensee will be issued a temporary operating permit for the liquor license until a final decision is made.</p> | <p>(i) The board will notify the licensee in writing of its intent to not renew the license, stating the reason for this decision.</p> <p>(ii) The licensee may contest the proposed non-renewal and request an adjudicative hearing under the provisions of the Administrative Procedure Act (chapter 34.05 RCW).</p> <p>(iii) If the licensee requests a hearing, the governmental jurisdiction will be notified. notified and required to present evidence at the hearing to support its recommendation.</p> <p>—(iv) The board will consider the evidence, and will subsequently enter a final order announcing its decision.</p> <p>—(v) The governmental jurisdiction(s) or the licensee may appeal the final order of the board to the superior court for judicial review (under chapter 34.05 RCW).</p> <p>—(v) <u>(iv)</u> During the hearing and any subsequent appeal process, the licensee is issued a temporary operating permit for the liquor license until a final decision is made.</p> |

How rules would look when adopted (strikethrough and underlining removed)

WAC 314-09-010 Objections to liquor license applications. (1) How can persons, entities, and governmental jurisdictions object to the issuance of a liquor license or permit? Per RCW 66.24.010 (8), (9), the board will notify certain entities of the following types of annual or special occasion liquor license or permit applications. In addition to the following entities, any person or group may comment in writing to the board regarding an application.

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(a) If the board contemplates issuing a license over the objection of a governmental jurisdiction in which the premises is located, the government subdivision may request an adjudicative hearing under the provisions of the Administrative Procedure Act (chapter 34.05 RCW). If the board, in its discretion, grants the governmental jurisdiction(s) an adjudicative hearing, the licensee will be notified and given the opportunity to present evidence at the hearing.

(b) If the board denies a liquor license application based on the objection from a governmental jurisdiction; a private school, church, or public institution within 500 feet of the premises (as measured according to RCW 66.24.010(9)); and/or other persons or groups, the applicant(s) may either:

- (i) Reapply for the license or permit no sooner than one year from the original denial date; or
- (ii) Submit a written request, within twenty days of the date of licensee's receipt of the denial letter, for an adjudicative hearing under the provisions of the Administrative Procedure Act (chapter 34.05 RCW).

WAC 314-09-015 Objections to liquor license renewals. (1) How can local governmental jurisdictions object to the renewal of a liquor license? (a) The board will give governmental jurisdictions ninety days written notice of premises that hold annual liquor licenses in that jurisdiction that are up for renewal.

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